

# **FISCAL MEMORANDUM**

## **SB 1933 – HB 1421**

April 22, 2008

### **SUMMARY OF AMENDMENT (016684, 017151, 017459):**

Amendments 016684, 017151, and 017459 delete the language of the original bill and substitutes new language creating the Competitive Cable and Video Services Act. This act authorizes the Tennessee Regulatory Authority (TRA) to issue fully-transferable state-issued certificates of franchise authority to cable or video service providers; authorizes TRA to impose application fees, based on population of service areas, ranging from \$500 to no more than \$15,000 for any state-issued certificate of franchise authority; authorizes TRA to impose a fee, also based on population of service areas, ranging from \$250 to no more than \$1,000 for any amendment to a state-issued certificate of franchise authority; requires state-issued certificates of franchise authority effective for periods of ten years; requires holders of state-issued certificates of franchise authority to pay franchise fees to applicable local governments based on gross revenue (as defined in the bill as amended); authorizes municipalities and counties to audit business records of holders of state-issued certificates of franchise authority no more than once per year and under specified circumstances; establishes rules and regulations regarding service to low income households; establishes rules and regulations for public, educational, and governmental (PEG) access channels; makes municipalities and counties eligible for state-authorized PEG access support fees based on gross revenue; limits the aggregate amount of state-authorized PEG access support fees and required franchise fees due to applicable local governments to five percent of gross revenue; establishes rules and regulations for holders of state-issued certificates of franchise authority regarding the solicitation of bids from minority-owned businesses; establishes penalties for violations of minority-owned business participation plans and for other violations concerning franchise fees; creates the Tennessee Broadband Deployment Fund (TBDF) for the purpose of deploying broadband internet services to unserved areas of the state; monies deposited to the TBDF are subject to appropriations and penalties imposed on holders of state-issued certificates of franchise authority; identifies various reporting requirements for holders of state-issued certificates of franchise authority, TRA, and the Comptroller; establishes a financing mechanism to pay for administrative costs incurred by TRA.

### **FISCAL IMPACT OF ORIGINAL BILL:**

Decrease State Revenues – Net Impact - \$12,497,000  
Increase State Expenditures - \$69,000 Recurring  
\$16,000 One-Time

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Decrease Local Govt. Revenues - \$2,250,000

Other Fiscal Impact – Additional changes to local government revenues of unknown amounts. Any such changes could result from changes in property tax revenues and franchise fees. However, these changes are dependent upon multiple unknown factors and cannot be measured or reasonably quantified.

## **FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

### **Increase State Revenue –**

**\$107,000/FY08-09/Tennessee Regulatory Authority**

**\$101,000/FY09-10 and Succeeding Years/Tennessee  
Regulatory Authority**

### **Increase State Expenditures –**

**\$6,000/One-Time/Tennessee Regulatory Authority**

**\$101,000/Recurring/Tennessee Regulatory Authority**

**Local Revenue – Net Impact – Not Significant**

**Decrease Local Expenditures – Not Significant**

**Other Fiscal Impact – An increase of state revenue could occur if any new market entrant acquires customers who are not currently subscribers for any video programming services offered by either satellite providers or cable providers. A decrease of state revenue could occur if a significant number of current satellite subscribers shift to video programming services offered by new market entrants utilizing new delivery technology. This decrease could occur because the effective tax rates levied on services delivered by the new technology will be less than the rates levied on services delivered by satellite providers. Such revenue impacts are considered offsetting and are dependent upon multiple unknown factors. The cumulative net impact to state revenue cannot reasonably be quantified.**

Assumptions applied to amendment:

- The increase to state revenue in FY08-09 resulting from application fees for state-issued certificates of franchise authority is dependent upon the number of entities that will apply for certification and the service areas in which each entity plans to serve. Given these unknowns, determining a precise fiscal estimate is difficult. However, such increase

to state revenue derived from application fees is reasonably estimated to be less than \$100,000 for FY08-09.

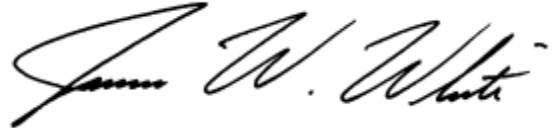
- Due to a limited number of entities having the necessary resources to provide video programming services statewide and the transferability of state-issued certificates of franchise authority, any increase to state revenue resulting from additional application fees in subsequent fiscal years is estimated to be not significant.
- Recurring fees derived from amended certificates of franchise authority are estimated to be not significant.
- According to TRA, two Consumer Protection Specialist 2 positions will be required to meet the provisions of this act. The increase of recurring state expenditures for the two positions is estimated to be \$101,000 per year (salaries, benefits, travel, supplies, etc.). The increase of one-time state expenditures associated with the two positions is estimated to be \$6,000 (computers and software).
- Amendment 017151 requires holders of state-issued certificates of franchise authority to pay an annual fee to TRA for offsetting any increased expenditures incurred by TRA to administer the act. For FY08-09, such fee shall not exceed \$107,000. This amount will be offset by any application fee revenue and any fee revenue derived from amendments made to state-issued certificates of franchise authority. In FY09-10 and subsequent fiscal years, the increase to state revenue is estimated to be \$101,000 per year (derived from any combination of new application fees, fee revenue derived from amendments, and any additional fees required to offset administrative costs incurred by TRA).
- Based on information provided by the Comptroller, any increase of departmental expenditures is estimated to be not significant.
- According to the Comptroller, local governments will continue to receive quarterly revenues from franchise fees from statewide franchise agreements. The Comptroller indicated that the extent of change in franchise fee revenue is unknown at this time due to multiple unknown factors, but such revenue should be at least equal to current revenue. In addition, there could be an additional increase to local government revenue as a result of any current satellite subscribers shifting to video programming services offered by a new market entrant offering such services by a new technology. The net impact to local government revenue is dependent upon multiple unknown factors and cannot be reasonably quantified. As a result, the net impact to local government revenue is estimated as not significant.
- Based on information provided by the Comptroller, local governments currently experience expenditures related to approving and administering current local franchise agreements. The Comptroller indicates that such expenditures should decrease in the future as video service providers acquire statewide franchise agreements. However, the

extent of such decreased expenditures cannot be quantified at this time. As a result, such decrease is estimated to be not significant.

- Based on information provided by the Department of Revenue, state revenue could change if current satellite subscribers shift to video programming services offered by a new market entrant that utilizes new technology to deliver its services, and if any new market entrant acquires new customers that are not currently customers of either satellite or cable providers. The Department has indicated that such impacts are offsetting and cannot reasonably be quantified. Therefore, the net impact to state revenue is estimated as not significant.

### **CERTIFICATION:**

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with the first name "James" written in a larger, more prominent script than the last name "White".

James W. White, Executive Director

/rnc